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Via Certified Mail –
Return Receipt Requested

November 10, 2017

Prabhakar Somavarapu, District Engineer
Head of Agency
Sacramento Area Sewer District
10060 Goethe Road
Sacramento, CA 95827

Michael L. Peterson, Director
Sacramento County - Department of Water Resources
827 7th Street, #301
Sacramento, CA 95814

Board of Directors
Sacramento Area Sewer District
700 H Street
Sacramento, CA 95814

Board of Supervisors
Sacramento County
700 H Street, Suite 1450
Sacramento, CA 95814

Re: Notice of Violations and Intent to File Suit Under the Federal Water Pollution Control Act (Clean Water Act)

Dear Mr. Somavarapu, Head of Agency, Mr. Peterson, and Members of the Boards:

STATUTORY NOTICE

This Notice is provided on behalf of California River Watch ("River Watch") with regard to violations of the Clean Water Act ("CWA" or "Act"; 33 U.S.C. § 1251 *et seq.*) that River Watch alleges are occurring through the ownership and/or operation of the sewage collection system owned and operated by the County of Sacramento ("the County") and/or the Sacramento Area Sewer District ("the District"). This Notice does not apply to penalties applicable to those violations for which the District was assessed and paid a civil administrative fine pursuant to

Administrative Civil Liability Order No. R5-2017-0503. This Notice addresses River Watch's concern over the failure of the County and the District to implement effective injunctive remedies ensuring protection of the environment from unabated sanitary sewer overflows.

River Watch hereby places the County and the District (identified collectively in this Notice Letter as "the Discharger"), on notice that following the expiration of sixty (60) days from the date of this Notice, River Watch will be entitled under CWA § 505(a), 33 U.S.C. § 1365(a), to bring suit in the U.S. District Court against the Discharger for continuing violations of an effluent standard or limitation pursuant to CWA § 301(a), 33 U.S.C. § 1311(a), and the Regional Water Quality Control Board, Central Valley Region, Water Quality Control Plan ("Basin Plan"), as the result of alleged unlawful discharges of sewage from the Discharger's sewer pipelines to Arcade Creek[1], Brooktree Creek, Chicken Ranch Slough[2], Elk Grove Creek, Franklin Creek, San Juan Creek, Strong Ranch Slough[3], Coyle Creek, Cripple Creek, Magpie Creek, Steelhead Creek[4], the American River[5], and the Sacramento River[6] - all waters of the United States.

The CWA regulates the discharge of pollutants into navigable waters. The statute is structured in such a way that all discharges of pollutants are prohibited with the exception of enumerated statutory provisions. One such exception authorizes a discharger, who has been issued a permit pursuant to CWA § 402, 33 U.S.C. § 1342, to discharge designated pollutants at certain levels subject to certain conditions. The effluent discharge standards or limitations specified in a National Pollutant Discharge Elimination System ("NPDES") permit define the scope of the authorized exception to the CWA § 301(a), 33 U.S.C. § 1311(a), prohibition, such that violation of a permit limit places a polluter in violation of the CWA. River Watch alleges the Discharger violates the CWA by discharging pollutants from a point source to a water of the United States without complying with CWA §§ 301(a) and 505(a)(1)(A), 33 U.S.C. §§ 1311(a) and 1365(a)(1)(A).

The CWA provides that authority to administer the NPDES permitting system in any given state or region can be delegated by the Environmental Protection Agency ("EPA") to a state or to a regional regulatory agency, provided that the applicable state or regional regulatory scheme under which the local agency operates satisfies certain criteria (*see* 33 U.S.C. § 1342(b)).

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[1] Arcade Creek is impaired for chlorpyrifos, copper, diazinon, malthion, pyrethroids, and sediment toxicity under CWA § 303(d).

[2] Chicken Ranch Slough is impaired for chlorpyrifos, diazinon, pyrethroids, and sediment toxicity under CWA § 303(d).

[3] Strong Ranch Slough is impaired for chlorpyrifos, diazinon, pyrethroids, and sediment toxicity under CWA § 303(d).

[4] Steelhead Creek is impaired for diazinon, mercury, and PCBs under CWA § 303(d).

[5] The Lower American River is impaired for mercury, PCBs, and unknown toxicity under CWA § 303(d).

[6] The Sacramento River (Knights Landing to the Delta) is impaired for -chlordane, DDT, dieldrin, mercury, PCBs, and unknown toxicity under CWA § 303(d).

In California, the EPA has granted authorization to a state regulatory apparatus comprised of the State Water Resources Control Board ("SWRCB") and several subsidiary regional water quality control boards to issue NPDES permits. The entity responsible for issuing NPDES permits and otherwise regulating the Discharger's operations in the region at issue in this Notice is the Regional Water Quality Control Board, Central Valley Region ("RWQCB").

While delegating authority to administer the NPDES permitting system, the CWA provides that enforcement of the statute's permitting requirements relating to effluent standards or limitations imposed by the Regional Boards can be ensured by private parties acting under the citizen suit provision of the statute (*see* CWA § 505, 33 U.S.C. § 1365). River Watch is exercising such citizen enforcement to enforce compliance by the Discharger with the CWA.

NOTICE REQUIREMENTS

The CWA requires that any Notice regarding an alleged violation of an effluent standard or limitation, or of an order with respect thereto, shall include sufficient information to permit the recipient to identify the following:

1. The Specified Standard, Limitation, or Order Alleged to Have Been Violated

River Watch has identified discharges of sewage from the Discharger's sewage collection system to waters of the United States in violation of CWA § 301(a), 33 U.S.C. § 1311(a), which states in part: "Except as in compliance with this section and sections 302, 306, 307, 318, 402, and 404 of this Act [33 U.S.C. §§ 1312, 1316, 1317, 1328, 1342, 1344], the discharge of any pollutant by any person shall be unlawful." These discharges are also in violation of RWQCB Order No. R5-2015-0023 ("Waste Discharge Requirements - Cities of Citrus Heights, Elk Grove, Folsom, Galt, Rancho Cordova, Sacramento, and County of Sacramento Storm Water Discharges From Municipal Separate Storm Sewer System Sacramento County").

2. The Activity Alleged to Constitute a Violation

River Watch contends that from November 10, 2012, to November 10, 2017, the Discharger has violated the Act as described in this Notice. River Watch contends these violations are continuing or have a likelihood of occurring in the future.

A. Collection System Surface Discharges Caused by Sanitary Sewer Overflows

Sanitary Sewer Overflows ("SSOs"), in which untreated sewage is discharged above ground from the collection system prior to reaching the Sacramento Regional Wastewater Treatment Plant, are alleged to have occurred both on the dates identified in the California Integrated Water Quality System ("CIWQS") Interactive Public SSO Reports and on dates when no reports were filed by the Discharger, all in violation of the CWA. The CIWQS "Spill Public Report – Summary Page" identifies **6,574** "Total Number of SSO locations," with **3,955,109** gallons total volume of SSOs. Of this total volume, the Discharger admits at least 738,040 gallons, or 18% of the total, reached a surface water, impacting waterways and posing both a nuisance pursuant to California Water Code § 13050(m) and an imminent and substantial

endangerment to health and the environment. All of these discharges are violations of CWA § 301(a), 33 U.S.C. § 1311(a), in that they are discharges of a pollutant (sewage) from a point source (sewage collection system) to a water of the United States without complying with any other sections of the Act. River Watch further contends these violations are continuing in nature or have a likelihood of occurring in the future.

Releases Reported. The Discharger's aging collection system has historically experienced high Inflow and Infiltration ('I/I") during wet weather. Structural defects which allow I/I into the sewer lines result in a buildup of pressure which causes SSOs. Overflows caused by blockages and I/I result in the discharge of raw sewage into gutters, canals and storm drains which are connected to adjacent surface waters such as Arcade Creek, Brooktree Creek, Chicken Ranch Slough, Elk Grove Creek, Franklin Creek, San Juan Creek, Strong Ranch Slough, Coyle Creek, Cripple Creek, Magpie Creek, Steelhead Creek, and the American River.

As stated above and as recorded in CIWQS Public SSO Reports, the Discharger's collection system has experienced at least 6,574 SSOs between October 27, 2012 and October 9, 2017, with a combined volume of at least 3,955,109 gallons – 738,040 gallons of which were reported as having reached surface waters. For example, on June 30, 2017 (Event ID# 836396), a sewage spill occurred (Coordinates 38.660953 – 121.372794), caused by a broken manhole inside drop connection allowing debris to accumulate. The spill volume was estimated at 5,733 gallons, of which an estimated 5,726 gallons reached surface water, impacting Magpie Creek. Magpie Creek flows into Steelhead Creek - a tributary of the Sacramento River. The spill was attended to the following day, July 1, 2017. On August 29, 2016 (Event ID# 828007), a spill caused by a root intrusion occurred at 4145 Central Avenue in Fair Oaks (Coordinates 38.642947 - 121.264597). The spill continued for three days. The estimated spill volume of 21,600 gallons reached an unnamed tributary to the American River. On January 10, 2017 (Event ID# 831787), a sewage overflow with three spill appearance points (two at 201 Tejon Avenue and one at 7230 Dorado Street in Rio Linda) (Coordinates 38.699908 – 121.461175), was caused by a storm surge which exceeded the design capacity of the Silver Oak Estates Pump Station. The spill volume, estimated at 31,182 gallons (none of which was recovered), reached a drainage channel which flows to Steelhead Creek. Discharges to storm water channels are discharges to waters of the United States.

Discharges to Surface Waters. The Discharger has reported to CIWQS many SSOs estimated at very small volumes claiming they did not reach surface waters. Yet the reports of those SSOs state "null" for question 29, "Explanation of volume estimation method used".

River Watch's expert believes many of the SSOs reported by the Discharger as being of small volume were larger than reported, that those reported as having been contained without reaching a surface water did in fact discharge to surface waters, and those reported as partially reaching a surface water did so in greater volume than stated. The accuracy of the Discharger's reporting is further called into question by the fact the Discharger has made false claims regarding the recovery of a significant spill in October of 2015 which impacted Arcade Creek, a tributary of the Sacramento River. Between October 17th and October 19th, 2015, an estimated 188,125 gallons of raw sewage spilled into Arcade Creek caused by the failure of temporary sewer bypass piping installed by the Discharger's contractor. The failure was left unnoticed

during the weekend as rain fell and creek flow increased, causing a joint in the pipe to separate. The Discharger claims to have finished pumping the sewage from Arcade Creek at 1:30 pm on October 23rd, and stated the spill of 188,125 gallons was recovered. Yet the RWQCB believes that full recovery of the spill at that point would be impossible, considering conditions of rainfall and increased creek flow.

River Watch contends the Discharger is not accurate in its estimates of spill durations, nor its estimates of total spill volumes, gallons cleaned up, and gallons which reached surface waters. In the CIWQS Spill Public Report – Summary Page, the Discharger claims that ninety percent (90%) of sewage spilled had been recovered, yet also states that eighteen percent (18%) has reached surface waters. River Watch believes some of the volume stated to have been recovered was in fact not recovered, and that some SSOs were of greater duration and volume than the Discharger discloses in its reports. Many of the Discharger's SSO reports state the exact same time for operator arrival and termination of the spill which River Watch believes is an underestimation of both the duration and the volume. In the previous example of the January 10, 2017 spill in Rio Linda (Event ID#831787), the Discharger reports the estimated spill start time and agency notification time as the same, 18:30:00, the estimated Operator arrival time as 20:30:00, and the estimated spill end time as 08:30:00 the following day, times which seem highly unlikely.

River Watch believes many of these spills were far more significant than the Discharger's Reports disclose due to the unlikely time and volume estimations, and the Discharger having previously made unfounded, impossible claims of amounts of spills recovered. In many of the SSOs admitted by the Discharger as having reached surface waters, the Discharger also reports a similar, sometimes identical amount for the total spill volume, volume recovered, and volume which reached surface water. River Watch contends the Discharger is grossly underestimating the incidences and volume of SSOs that reach surface waters.

Mitigating Impacts. River Watch contends the Discharger fails to adequately mitigate the impacts of SSOs. The Discharger is a permittee under the Statewide General Requirements for Sanitary Sewer Systems, Waste Discharge Requirements Order No. 2006-0003-DWQ ("Statewide WDR") governing the operation of sanitary sewer systems. The Statewide WDR mandates that the permittee shall take all feasible steps to contain and mitigate the Impacts of a SSO. The EPA's "*Report to Congress on the Impacts of SSOs*" identifies SSOs as a major source of microbial pathogens and oxygen depleting substances.

Numerous critical habitat areas exist within areas of the Discharger's SSOs. Both the American River and Sacramento River flow into the Sacramento San Joaquin Delta[7], a sensitive ecosystem which is experiencing serious decline. There is no record of the Discharger performing any analysis of the impact of SSOs on critical habitat of protected species under the ESA, nor any evaluation of the measures needed to restore water bodies designated as critical habitat from the impacts of SSOs.

[7] The Sacramento San Joaquin Delta is impaired for chlordane, DDT, dieldrin, dioxin compounds, furan compounds, invasive species, mercury, PCBs, and selenium under CWA § 303(d).

The Statewide WDR requires the Discharger to take all feasible steps and perform necessary remedial actions following the occurrence of an SSO, including limiting the volume of waste discharged, terminating the discharge, and recovering as much of the wastewater as possible. Further remedial actions include intercepting and re-routing of wastewater flows, vacuum truck recovery of the spill, cleanup of debris at the site, and modification of the collection system to prevent further SSOs at the site. One of the most important remedial measures is the performance of adequate sampling to determine the nature and impact of the release. As the Discharger is severely underestimating SSOs which reach surface waters, River Watch contends the Discharger is not sampling enough of its reported SSOs.

Compliance with the Municipal Separate Storm Sewer System (MS4) Stormwater Permit. River Watch contends the Discharger fails to adequately comply with the discharge prohibitions of its MS4 Permit (Order No. R5-2015-0023, NPDES Permit No. CAS082597), which states in relevant part:

> "Discharges from MS4s in a manner causing, or threatening to cause, a condition of pollution, contamination, or nuisance as defined in Section 13050 of the California Water Code are prohibited." (Discharge Prohibition A.1 – Storm Water Discharges); "Discharges from MS4s containing pollutants, which have not been reduced to the MEP [maximum extent practicable], are prohibited." (Discharge Prohibition A.3 – Storm Water Discharges); and, "Each Permittee shall effectively prohibit all types of non-storm water discharges into its MS4s unless such discharges are either authorized by a separate NPDES permit, or not prohibited in accordance with this Order." (Discharge Prohibition B.1 – Non-Storm Water Discharges).

The County's MS4 is a system of conveyances intended to carry stormwater. The County's MS4 is connected to storm drain pipes which discharge into the American River, the Sacramento River, and their tributaries. However, SSOs bring sewage into the MS4 and hence into waterways connected to, and downstream of, the MS4.

In practice, the addition of any SSO that results in a discharge of untreated or partially treated wastewater to waters of the United States is prohibited, and any SSO that results in a discharge of untreated or partially treated wastewater that creates a nuisance as defined in California Water Code § 13050(m) is prohibited (including SSOs whether or not they reach a surface water.) California Water Code § 13050(m) defines nuisance to mean "anything which meets all of the following requirements: (1) Is injurious to health, or is indecent or offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property. (2) Affects at the same time an entire community or neighborhood, or any considerable number of persons, although the extent of the annoyance or damage inflicted upon individuals may be unequal. (3) Occurs during, or as a result of, the treatment or disposal of wastes.

B. Collection System Subsurface Discharges Caused by Underground Exfiltration

It is also a well-established fact that exfiltration caused by pipeline cracks and other structural defects in a collection system result in discharges to adjacent surface waters via underground hydrological connections.

River Watch contends that untreated sewage is discharged from cracks, displaced joints, eroded segments, etc., of the Discharger's collection system into groundwater hydrologically connected to surface waters including, but not limited to, the American River and its tributaries such as Chicken Ranch Slough and Strong Ranch Slough, tributaries of the Sacramento River such as Steelhead Creek and Arcade Creek, and tributaries of Arcade Creek including Brooktree Creek, San Juan Creek, Coyle Creek, and Cripple Creek. Surface waters become contaminated with pollutants including human pathogens. Chronic failures in the collection system pose a substantial threat to public health. Studies tracing human markers specific to the human digestive system in surface waters adjacent to defective sewer lines in other systems have verified the contamination of the adjacent waters with untreated sewage.

Evidence of exfiltration can also be supported by reviewing mass balance data, I/I data, and video inspection, as well as tests of waterways adjacent to sewer lines for nutrients, human pathogens, and other human markers such as caffeine. Any exfiltration found from the Discharger is a violation of the MS4 NPDES permit and thus the CWA. During the course of discovery River Watch will test surface waters adjacent to sections of the Discharger's collection system to determine the location and extent of exfiltration.

C. Impacts to Beneficial Uses

The American River, the Sacramento River, and the Sacramento San Joaquin Delta have many beneficial uses as defined in the RWQCB's Basin Plan. SSOs reaching these waters or their tributaries cause prohibited pollution by unreasonably affecting these beneficial uses.

The American River supports over forty (40) species of fish in the Lower American River watershed. The watershed is a diverse ecosystem, critical to the freshwater life cycle of the endangered winter-run Chinook salmon, the threatened spring-run Chinook salmon, and the threatened Steelhead trout. Designated a "Recreational River" under the California Wild and Scenic Rivers Act and the National Wild and Scenic Rivers Act, the lower American River is widely appreciated for a variety of water contact recreational uses including swimming. It is also on the CWA § 303(d) list of impaired water bodies for mercury, PCBs, and unknown toxicity and has recently experienced rising levels of E. coli. The Lower American River meanders westward from Folsom Lake and approximately one mile north of the California State Capitol in Sacramento the River joins the Sacramento River's journey south to the Sacramento-San Joaquin Delta.

The Sacramento River is California's largest river and the largest contributor of fresh water to the Sacramento-San Joaquin Delta. The beneficial uses of the Sacramento River as stated in the RWQCB's Basin Plan include municipal and domestic water supply, agricultural water supply, water contact and non-contact recreation, industrial process and industrial service

supply, warm and cold freshwater habitat, cold and warm migration of aquatic organisms, warm spawning, reproduction and/or early development, wildlife habitat, and navigation. The Sacramento River in the areas of the Discharger's SSOs is within designated critical habitat for the endangered winter-run Chinook salmon as well as the spring-run Chinook salmon, Steelhead trout, Delta smelt, and green sturgeon, all of which are federally-listed threatened species. The southern portion of the Sacramento River is listed as CWA § 303(d) impaired for chlordane, DDT, dieldrin, mercury, PCBs, and unknown toxicity. Many of the Discharger's SSOs which do not directly spill into the Sacramento River still reach the River via its tributaries. While some areas where spills have occurred were dry at the time, the discharged pollutants remain on the surface of the land and enter receiving waters following rainfall or flooding.

The Sacramento-San Joaquin Delta, at the confluence of the Sacramento and San Joaquin Rivers, is the largest Pacific Coast estuary in the Americas and California's most crucial water and ecological resource. It is a primary source of drinking water for twenty-five million Californians. The Delta ultimately drains to the San Francisco Bay, and then to the Pacific Ocean. The Delta's sensitive and deteriorating ecosystem provides habitat to more than fifty (50) species of fish. Approximately two thirds of California's salmon pass through the Delta on their way to spawn. This fragile ecosystem is a treasured place for water contact recreation and is essential to commercial fishing as well. The Delta is critical habitat for the threatened Delta smelt. Ammonia pollution is among the reasons for population decline. The Delta ultimately drains to the San Francisco Bay, and then to the Pacific Ocean.

River Watch is understandably extremely concerned regarding the effects of both surface and underground SSOs on critical habitat in and around the diverse and sensitive ecosystems of California's Central Valley and the Sacramento-San Joaquin Delta including risks to the health of those who recreate in, and consume fish from, those ecosystems.

3. The Person or Persons Responsible for the Alleged Violation

The entities responsible for the alleged violations identified in this Notice are the County of Sacramento, the Sacramento Area Sewer District, and those of their employees responsible for compliance with the CWA and with any applicable state and federal regulations and permits.

4. The Location of the Alleged Violation

The location or locations of the various violations alleged in this Notice are identified in records created and/or maintained by or for the Discharger which relate to its sewage collection system as further described in this Notice.

Sacramento County, one of the original counties of California and located in California's Central Valley, encompasses a total area of 994 square miles - 965 square miles of which is land and the remainder water. Sacramento County is bordered to the north by Placer and Sutter counties, to the east by Amador and El Dorado counties, and to the south by Contra Costa and Joaquin Counties. The Sacramento River, named for the "Most Holy Sacrament" by Spanish explorer Gabriel Moraga, forms the Sacramento County's western border dividing it from Yolo and Solano counties.

The District is a sewer utility which serves as one contributing agency to the Sacramento Regional County Sanitation District ("Regional San"). The District is responsible for the collection of wastewater (sewage) from the unincorporated areas of Sacramento County, the cities of Citrus Heights, Elk Grove, and Rancho Cordova, as well as portions of the cities of Folsom and Sacramento. The District is overseen by a Board of Directors consisting of the five Sacramento County Supervisors, and the mayors, or appointees, of the cities of Citrus Heights, Elk Grove, Folsom, Rancho Cordova, and Sacramento. The District owns, and is responsible for, operation and maintenance of lower lateral and main line pipes which collect sewage from approximately 1,180,000 residential, commercial, and industrial users. The larger interceptor pipes which convey the wastewater to the Sacramento Regional Wastewater Treatment Plant ("the Plant"), are owned and operated by Regional San. Both the County and the District are owners and operators of the collection system at issue in this Notice.

Sanitary Sewer System Description

The sanitary sewer system at issue in this Notice is large and complex, encompassing approximately 270 square miles, and includes approximately 293,400 lateral connections, 3,022 miles of gravity sewer, 82 miles of force main, and 1,408 miles of laterals.

Treatment Facility

Regional San owns, operates, and maintains 169 miles of main trunk lines and interceptor pipelines which transport wastewater to the Plant which is also owned and operated by Regional San. The Plant has a design capacity of 181 million gallons per day. Treated wastewater is discharged to the Sacramento River via a 300-foot-long outfall diffuser.

5. The Date or Dates of Violations or a Reasonable Range of Dates During Which the Alleged Activity Occurred

The range of dates covered by this Notice is November 10, 2012 through November 10, 2017. This Notice also includes all violations of the CWA by the Discharger which occur during and after this Notice period up to and including the time of trial.

6. The Full Name, Address, and Telephone Number of the Person Giving Notice

The entity giving notice is California River Watch, referred to throughout this notice as "River Watch," an Internal Revenue Code § 501(c)(3) nonprofit, public benefit corporation duly organized under the laws of the State of California. Its headquarters and main office are in Sebastopol. Its mailing address is 290 South Main Street, # 817, Sebastopol, CA 95472. River Watch is dedicated to protecting, enhancing, and helping to restore surface waters and groundwaters of California including coastal waters, rivers, creeks, streams, wetlands, vernal pools, aquifers and associated environs, biota, flora and fauna, and educating the public concerning environmental issues associated with these environs.

River Watch may be contacted via email: US@ncriverwatch.org, or through its attorneys. River Watch has retained legal counsel with respect to the issues raised in this Notice. All communications should be directed as follows:

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RECOMMENDED REMEDIAL MEASURES

River Watch looks forward to meeting with the Discharger's staff to tailor remedial measures to the specific operation of the Discharger's sewer collection system. In advance of that conversation, River Watch identifies the following set of remedial measures for discussion.

A. Definitions

Condition Assessment: A report that comprises inspection, rating, and evaluation of the existing condition of a sewer collection system. Inspection is based upon closed circuit television ("CCTV") inspections for sewer lines, manhole inspections for structural defects, and inspections of pipe connections at the manhole. After CCTV inspection occurs, pipe conditions are assigned a grade such as the Pipeline Assessment and Certification Program ("PACP") rating system developed by the National Association of Sewer Service Companies.

Full Condition Assessment: A Condition Assessment of all sewer lines in the sewer collection system.

Surface Water Condition Assessment: A Condition Assessment of sewer lines in the sewer collection system located sufficiently proximate to a surface water that if defective, could allow exfiltration to that surface water. Whether a line is "sufficiently proximate" will depend upon a number of factors including, but not limited to age, composition and PACP rating of the sewer line in question, the nature of the defect, soil types, and groundwater patterns.

Significantly Defective: A sewer pipe is considered Significantly Defective if its condition receives a Structural or Operation and Maintenance grade of 4 or 5 based on the PACP rating system. The PACP assigns grades based on the significance of the defect, extent of damage, percentage of flow capacity restriction, and/or the amount of pipe wall loss due to deterioration. Grades are assigned as follows:

5 – Most significant defect
4 – Significant defect
3 – Moderate defect
2 – Minor to moderate defect

1 – Minor defect.

B. Remedial Actions

1. Within two (2) years, the Discharger shall repair or replace all sewer lines and manholes in the Discharger's sewer collection system sufficiently proximate to a surface water and determined to pose a risk of exfiltration to that surface water which have been CCTV'd within the past ten (10) years and were rated as Significantly Defective or given a comparable assessment.

2. Within two (2) years, the Discharger shall complete a Surface Water Condition Assessment of sewer lines and manholes which have not been CCTV'd during the past ten (10) years.

3. Within two (2) years after completion of the Surface Water Condition Assessment conducted pursuant to paragraph B.2., the Discharger shall:

i. Repair or replace all sewer lines and/or manholes found to be Significantly Defective.

ii. Repair or replace sewer pipe segments containing defects with a rating of 3 based on the PACP rating system, if such defect resulted in an SSO, or if in the Discharger's discretion, such defects are in close proximity to Significantly Defective segments that are in the process of being repaired or replaced. Sewer pipe segments which contain defects with a rating of 3 that are not repaired or replaced within five (5) years after completion of the Surface Water Condition Assessment are to be re-CCTV'd every five (5) years to ascertain the condition of the sewer line segment. If the Discharger determines that the grade-3 sewer pipe segment has deteriorated and needs to be repaired or replaced, the Discharger shall complete such repair or replacement within two (2) years after the last CCTV cycle.

iii. Beginning no more than one (1) year after completion of the Surface Water Condition Assessment, the Discharger shall complete a Condition Assessment within three (3) years. Any sewer pipe segment receiving a rating of 5 or 4 based on the PACP system shall be repaired or replaced within three (3) years after the rating determination unless that segment is within two hundred (200) feet of a surface water. If any sewer pipe segment receiving a rating of 5 or 4 based on the PACP rating system is within two hundred (200) feet of a surface water or drinking water well, that segment shall be repaired or replaced within six (6) months after the rating determination unless the Discharger can prove by means of human marker testing that the segment is not posing a threat to that surface water or drinking water well.

iv. The Discharger shall perform a Condition Assessment of all sewer lines, manholes, and segments at least every ten (10) years, except for those sections which were repaired or replaced within ten (10) years after the scheduled inspection.

C. SSO Reporting and Response

1. Modification of the Discharger's Backup and SSO Response Plan to include in its to reports submitted to the CIWQS State Reporting System the following items:

i. The method or calculations used for estimating total spill volume, spill volume that reached surface waters, and spill volume recovered.

ii. For Category I and II Spills, a listing of nearby residents or business owners who have been contacted to attempt to establish the SSO start time, duration, and flow rate, if such start time, duration, and flow rate have not been otherwise reasonably ascertained, such as from a caller who provides information that brackets a given time the SSO began.

iii. Taking of photographs of the manhole flow at the SSO site using the San Diego Method array, if applicable to the SSO, or other photographic evidence that may aid in establishing the spill volume.

2. Pursuant to the Discharger's legal obligation under Section D.7.v. of the Statewide WDR, the Discharger shall obtain a qualified biologist to develop and implement an adequate sampling program to determine the nature and impact of all SSOs. Compliance with the Statewide WDR includes, but is not limited to, the preparation of, and adherence to, a Sewer System Management Plan ("SSMP"). The Discharger shall implement and place in its Sewage System Overflow Emergency Response Plan ("OERP") the following:

i. Detailed cleanup and disinfection procedures including methods and chemicals used to reduce the potential for human health risks and adverse environmental impacts associated with an SSO event, which include the following:

a. Sampling for human specific pathogens or human markers to ensure that all infectious materials have been either removed or mitigated. Water quality sampling and testing is required to determine the extent and impact of the SSO whenever there is an SSO that either reaches a surface water or is discharged to a surface where it poses a risk to public health or the environment. The water quality sampling procedures shall include:

- The first responder shall collect samples if required. Samples should be collected as soon as possible after the discovery of the SSO event.

- The water quality samples should be collected, where feasible, from upstream of the spill, from the spill area, and downstream of the spill in flowing water. In addition, samples should be collected near the point of entry of the spilled sewage and at each one hundred (100) feet along the shore on impoundments.

- Pursuant to Section D.7.v. of the Statewide WDR, the Discharger shall sample to determine the nature and extent of any SSO. The water surface basic analyses shall include fecal coliform, biochemical oxygen demand (BOD), dissolved oxygen, and ammonia. The hard surface basic analyses shall include total coliform, fecal coliform, and ammonia. Additional samples shall be taken to determine when posting of warning signs can be discontinued.

b. If the SSO poses an imminent and substantial endangerment to public health or the environment that cannot be fully mitigated by the Discharger's current standard operating procedures, the Discharger shall consult a qualified biologist, health care specialist or equivalent professional to mitigate the effects of the SSO on the environment.

c. In any area in which the Discharger cannot confirm that all of the infectious materials from an SSO have been removed or mitigated, the Discharger shall post appropriate public notification signs and place barricades to keep vehicles and pedestrians away from contact with spilled sewage. For example, signs will be posted at creeks and streams that have been contaminated as a result of an SSO and at visible access locations until the risk of exposure has subsided to acceptable background levels. Warning signs should be checked every day to ensure they are still in place. Major spills warrant broader public notice. For major spills, the Discharger shall contact local media when significant areas may have been contaminated by sewage and may pose a danger to public health. The signs and other public notices will not be removed until the Health Department has determined there is no further risk to public health and the environment.

3. Creation of website capacity to track information regarding SSOs, or in the alternative, the creation of a link from the Discharger's website to the CIWQS SSO Public Reports. Notification shall be given by the Discharger to all customers and other members of the public of the existence of the web-based program including a commitment to respond to private parties submitting overflow reports.

4. Performance of human marker sampling on surface waters adjacent to sufficiently proximate sewer lines test for sewage contamination from exfiltration.

D. Lateral Inspection/Repair Program

1. Creation of a mandatory private sewer lateral inspection and repair program triggered by any of the following events.

i. Transfer of ownership of the property if no inspection/replacement of the sewer lateral occurred within ten (10) years prior to the transfer;

ii. The occurrence of two (2) or more SSOs caused by the private sewer lateral within two (2) years;

iii. A change of the use of the structure served (a) from residential nonresidential use, (b) to anon-residential use that will result in a higher flow than the current non-residential use, or (c) to non-residential uses where the structure served has been vacant or unoccupied for more than three (3) years;

iv. Upon replacement or repair of any part of the sewer lateral;

v. Upon issuance of a building permit with a valuation of $25,000.0or more; or

vi. Upon significant repair or replacement of the main sewer line to which the lateral is attached.

E. Chemical Root Control

1. The Discharger shall use chemicals for root control approved and/or recommended by the federal Environmental Protection Agency or RWQCB. All applications shall comply with the recommendations of the manufacturer of the chemical and as required by Cal-OSHA. Within one (1) year, the Discharger shall develop methods for the application of root control agents that lessen the incident of these agents escaping the collection system, and for keeping the public informed. These methods shall include:

i. Blocking the line upstream and down-stream of the area of application;

ii. Using root control agents that have a half-life of sixty (60) days or less and are contain breakdown products which are non-toxic to aquatic plants or animals;

iii. Developing and implementing best management practices to preclude the escape of root control agents from the sewer line;

iv. Recordkeeping that includes identifying the PACP rating for the line section being treated, a map identifying locations where treatment occurs, the chemical(s) used including the MSDS sheets, and the amounts applied;

v. Not applying any root control agent to any sewer line that has a known PACP rating of 4 or 5 unless the Discharger can ensure that none of the root control agent will escape the sewer line through any line defect;

vi. Not knowingly applying any root control agent in any location where groundwater can be contaminated via infiltration or exfiltration; and,

vii. Verifying through CCTV'ing of the sewer lines, prior to the expiration of the applicable warranty, that the root control agent applied was effective in removing the identified root(s).

2. The Discharger shall post on its website a map showing where a root control agent may be used throughout the sewer system and provide a contact number for the Discharger to respond to questions.

F. SSMP Updates

1. The Discharger's SSMP shall be kept current and properly certified. All documents relating to the certification shall be provided on the County's Department of Water Resources website. These requirements shall be included in the Discharger's updated SSMP:

G. Staff Training

The Discharger will develop a Standard Operating Procedure for training of staff with primary responsibility for maintenance of the sewer collection system. The Standard Operating Procedure will provide that such staff will obtain a California Water Environment Association Certification of Collections I within one (1) year of assignment. To the extent this requirement conflicts with any collective bargaining agreement applicable to relevant Discharger staff, the provisions of the collective bargaining agreement will prevail.

CONCLUSION

The violations set forth in this Notice effect the health and enjoyment of members of River Watch who reside and recreate in the affected community. Members of River Watch use the affected watershed for recreation, swimming, fishing, horseback riding, hiking, photography, nature walks and the like. Their health, use and enjoyment of this natural resource is specifically impaired by the Discharger's alleged violations of the CWA as set forth in this Notice.

CWA §§ 505(a)(1) and 505(f) provide for citizen enforcement actions against any "person", including a governmental instrumentality or agency, for violations of NPDES permit requirements and for un-permitted discharges of pollutants. 33 U.S.C. §§ 1365(a)(1) and (f), § 1362(5). An action for injunctive relief under the CWA is authorized by 33 U.S.C. § 1365(a).

Violators of the Act are also subject to an assessment of civil penalties of up to $37,500.00 per day/per violation for all violations pursuant to Sections 309(d) and 505 of the Act, 33 U.S.C. §§ 1319(d), 1365. *See also* 40 C.F.R. §§ 19.1 – 19.4. River Watch believes this Notice sufficiently states grounds for filing suit in federal court under the "citizen suit" provisions of the CWA to obtain the relief provided for under the law.

The CWA specifically provides a **60-day** "notice period" to promote resolution of disputes. River Watch strongly encourages the Discharger to contact River Watch within **20 days** of receipt of this Notice Letter to initiate a discussion regarding the allegations detailed in this Notice. In the absence of productive discussions to resolve this dispute, River Watch will have cause to file a citizen's suit under CWA § 505(a) when the 60-day notice period ends.

Very truly yours,

Jack Silver

JS:lhm

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